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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,319	04/28/2004	Edward W. Conrad	BUR920040099US1	3318
23550	7590	12/02/2004	EXAMINER	
HOFFMAN WARNICK & D'ALESSANDRO, LLC			KASENGE, CHARLES R	
3 E-COMM SQUARE			ART UNIT	
ALBANY, NY 12207			PAPER NUMBER	

2125

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/709,319	Applicant(s) CONRAD ET AL.	
	Examiner Charles R Kasenge	Art Unit 2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-20 is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 8, 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 4-6, 9-13 and 23-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/28/04</u> . | 6) <input type="checkbox"/> Other: ____  |

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 7, 8, 21, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Sonderman et al. U.S. Patent 6,821,792. Referring to claim 1, Sonderman discloses a method of processing a run method comprising the steps of: providing a database comprising subgroups (col. 5, lines 39-48) of data representing characteristics from previously processed workpieces (col. 5, lines 49-58); selecting a first subgroup of data having characteristics that satisfy a predetermined criteria (col. 2, lines 37-56); determining processing conditions for a processing tool corresponding to the first subgroup of data (col. 5, lines 13-28); processing the run of workpieces with the process tool using the determined processing conditions (col. 6, lines 7-17); and measuring the run of workpieces according to a sampling rate determined from the first subgroup of data (col. 5, lines 49-58).

Referring to claims 2, 3, and 7, Sonderman discloses the method of claim 1, wherein the characteristics include characteristics of the workpiece (col. 2, lines 37-56). Sonderman discloses the method of claim 1, wherein the characteristics include characteristics of the process tool (col. 2, lines 37-56). Sonderman discloses the method

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of claim 1, wherein the run of workpieces comprises a lot of semiconductor parts and the measuring step comprises a metrology process (col. 2, lines 37-56).

Referring to claims 8, 21, and 22, Sonderman discloses an advanced process control (APC) system (col. 1, lines 54-67), comprising: a data analysis system that determines a set of conditions for a manufacturing process based on a subgroup of data identified from a historical database, wherein the subgroup of data is identified according to a selected rule (col. 5, lines 13-28); a tagging system that associates a tag containing the selected rule to each product lot subjected to the manufacturing process (col. 5, lines 39-48); and a sampling optimization system that examines the tag for each product lot processed and determines a metrology sampling rate based on the selected rule (col. 5, lines 49-58). Sonderman discloses the program product of claim 21, wherein the associating means includes tagging the selected rule to the product lot (col. 5, lines 39-58).

***Allowable Subject Matter***

3. Claims 14-20 are allowed.
4. Claims 4-6, 9-13, and 23-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

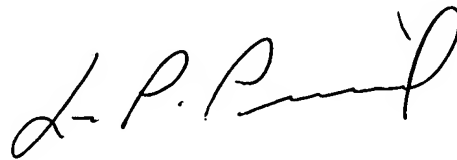
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R Kasenge whose telephone number is 571 272-3743. The examiner can normally be reached on Monday through Friday, 8:30 - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "L. P. Picard", with a stylized flourish at the end.

CK  
November 24, 2004

**LEO PICARD**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**